

## FAQs : Report on Illegal Importation of Alcohol

- WHY was the report prepared?

The 2008 budget for the Department of Labor & Economic Growth contained in Senate Bill 234 (Public Act 118 of 2007) requires in Section 376 that the Michigan Liquor Control Commission (MLCC) and Authorized Distribution Agents accomplish the following tasks:

*Sec. 376. By January 15, 2008, the liquor control commission, in conjunction with the authorized distribution agents shall submit a report to the subcommittees with an estimate on how much state revenue is lost due to spirits being purchased from other states and brought into Michigan for individual consumption or illegal resale. The report shall include the estimated cost of increasing the number of law enforcement officers needed, or other technological methods to be used, to reduce the amount of out-of-state spirits being transported and sold in Michigan illegally.*

- WHAT is the purpose of preparing the report?

The primary purpose of the report was to assess the extent to which illegal importation of alcohol is happening in Michigan and the impact on state revenue. The report also included recommendations and cost analysis for consideration by the legislature based on research, survey responses, and interviews with manufacturers, retailers, law enforcement agents and other front line industry participants.

- HOW was the data collected?

The project began in November 2007 with a meeting that included a task-specific group from the MLCC staff, Authorized Distribution Agent representatives, and Michigan Liquor Vendors representatives. Survey data was collected from December 1 to December 15 and testimony was taken at the Michigan Liquor Control Commission's semi-annual public hearing on December 5<sup>th</sup>, 2007. National and international news services were researched to form a global image of the issue and video footage was reviewed for background information. Interviews with manufacturers, retailers, law enforcement agents and other front line industry participants were also conducted which provided valuable information and perspectives for this report.

- WHAT is the impact of smuggling on state revenue?

Alcohol revenue is consistently one of the top five sources of income for the State of Michigan. Preliminary figures indicate that in fiscal year 2006-2007 the MLCC contributed \$321.6 million to state revenue including:

- \$88.8 million to the General Fund for general purposes
- \$49.8 million to the General Fund for restricted purposes
- \$35.7 to the School Aid Fund and
- \$147.3 million in Liquor Purchase Revolving Fund revenue

Conservatively, illegal importation of alcohol into Michigan strips the State of at least \$14 million each year including product cost, mark-up and specific taxes but not including sales tax or business income tax. Clearly, the smuggling reduces the State's sales and tax revenue, hurts children's education programs funded through the School Aid Fund and harms social programs, tourism and convention facility programs funded through the collection of the specific and excise tax revenue.

- **WHY does the illegal importation of alcohol into Michigan occur?**

Smuggling or bootlegging has been an issue since the days of Prohibition. Limited law enforcement resources, ineffective penalties, and untaxed income in the millions of dollars made from smuggling alcohol into Michigan make this illegal activity especially tempting and profitable. However the dangers of illegal importation have increased significantly as the hijacking for product, cash, and delivery vehicles has become a serious matter of life and death. In the past few years, several delivery drivers have been held up or shot in attempts to steal alcohol.

- **WHERE is the alcohol coming from that is being smuggled into Michigan?**

Based upon price differentiation the majority of alcohol is coming into Michigan from Indiana and possibly Wisconsin.

- **WHAT is the legal allowance for alcohol products being brought into Michigan?**

State liquor laws require persons who wish to bring any type of alcoholic beverage into Michigan for personal consumption to obtain prior written approval of the Commission with the following exceptions:

- A person of legal age who has been outside the U.S. territorial limits for at least 48 hours and has not brought alcoholic liquor into Michigan during the past 30 days, may bring up to one liter into Michigan without prior approval.
- A person of legal age may bring up to 312 ounces of alcoholic liquor that contains less than 21% alcohol by volume (about 24 – 12 ounce containers of beer or 12 – 750ml containers of wine) from another state without prior approval.

- **HOW does the illegal importation of alcohol into Michigan occur?**

Law enforcement surveillance teams have tracked smugglers bringing in \$30,000 or more in product across state lines on a regular basis using vans

and trucks. Our research suggests that retail licensees are not transporting product themselves into Michigan but rather purchasing it from an unlicensed third party.

- **WHAT are the penalties for illegal importation?**

Generally, violations of the Liquor Control Code of 1998 (Code) are considered misdemeanors. However, a person required to be licensed under the Code is guilty of a felony if he/she illegally sells, delivers, or imports alcoholic liquor (beer, wine, and/or spirits) into Michigan under Section 909, being MCL 436.1909, which is punishable by imprisonment for not more than 1 year or by a fine of not more than \$1,000, or both. All the smugglers bringing beer, wine and spirits into Michigan would be guilty of a felony.

A licensed Michigan retailer who is found to have obtained beer, wine, and/or spirits from illegal sources would be cited for purchasing from an unauthorized source under R 436.1033 of the Michigan Administrative Code. Any violation of the Liquor Control Code and/or the Michigan Administrative Code for which a licensee is cited and found responsible may be assessed a penalty of not more than \$300 for each violation in addition to or in lieu of suspension or revocation of the liquor license.

- **WHAT can be done to reduce the impact of the illegal importation of alcohol into Michigan?**

**Increase penalties for the illegal importation of alcohol and appropriations for law enforcement.**

The current penalty for the illegal importation of alcohol into Michigan is a felony punishable by imprisonment for not more than 1 year or by a fine of not more than \$1,000 or both. However, this felony is **not** included in "racketeering" activity, as are tobacco product taxes, which is a felony punishable by imprisonment for not more than 20 years or a fine of \$100,000 or both. Additionally, it is noted that a person convicted of a racketeering felony can be ordered to pay court costs, investigation and prosecution costs, and their property is subject to criminal forfeiture. Increasing penalties in and of itself would not be a sufficient deterrent without increasing available law enforcement agents to investigate and gather evidence for successful prosecutions. Six additional MLCC Enforcement agents working in teams of two with local law enforcement agencies would cost approximately \$480,000 or 3.5% of the conservative \$14 million loss estimate. A return on investment in excess of 1461% could be realized with the hiring of six agents.

**Partner with local law enforcement agencies to reduce the illegal importation of alcohol.**

To motivate local law enforcement agencies to devote time and resources to preventing the illegal importation of alcoholic beverages for the benefit of the state, an incentive program could be considered. Memorandums of Understanding could be entered into with local law enforcement agencies for use of technology provided by the State and with

enhanced penalties local law enforcement agencies could receive compensation for investigation and prosecution costs as well as any proceeds from property subject to criminal forfeiture.

**Utilize available technology to reduce illegal importation of alcohol.**

Purchase available X-Ray and barcode scanning equipment (if barcodes are added to deposit containers as contemplated in Senate Bill 821) to be utilized in investigations and surveillance with local law enforcement agencies under the Memorandum of Understanding. Roughly \$500,000 in funding would be necessary for the purchase of X-Ray scanning technology and about \$1,000 would be needed for each UPC bar code scanner.

**Education and training of law enforcement officers and retail licensees.**

The MLCC could coordinate its education and training efforts with local law enforcement agencies and trade associations that offer and support training programs.

- WHERE can I find a copy of the full report?

A copy of the report can be found at [www.michigan.gov/lcc](http://www.michigan.gov/lcc) on the MLCC website